

CHAPTER 92-01-03 OFFICE OF INDEPENDENT REVIEW

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92-01-03-01. History and functions of the office of independent review.

1. **History.** Legislation enacting the office of independent review was passed in 1995 and is codified as North Dakota Century Code section 65-02-27. The legislation took effect on August 1, 1995.
2. **Functions.** The program has been developed to educate and provide assistance to injured employees in the workers' compensation system. The goal is to resolve claims disputes in a timely and professional manner. If an employee has a concern with a claim, the employee may contact the office of independent review and request assistance.

History: Effective April 1, 1996; amended effective May 1, 2000.

General Authority: NDCC 65-02-08

Law Implemented: NDCC 65-02-27

92-01-03-02. Definitions. In this chapter:

1. "Act" means the North Dakota Workers Compensation Act.
2. "Advocate" means a person employed by the program to assist a claimant in a disputed claim.
3. "Attempt to resolve" means a prompt, active, honest, good-faith effort by the claimant to settle disputes with the organization, through the program.
4. "Benefits" means an obligation of the organization to provide a claimant with assistance as required by the Act.
5. "Certificate of completion" means the form sent to the claimant when the program closes its file, which acknowledges the claimant made a good-faith effort to resolve the dispute.
6. "Claimant" means an employee who has filed a claim for benefits with the organization.

7. "Constructive denial" occurs when sixty days have passed since all elements of filing under subsection 2 of section 92-01-02-48 have been satisfied, but the organization has not made the decision to accept or deny the claim.
8. "Disputed claim" means a challenge to an order issued by the organization.
9. "Interested party" means:
 - a. The claimant.
 - b. The claims analyst assigned to that claimant's claim.
 - c. A claims supervisor.
 - d. The claimant's employer or immediate supervisor.
 - e. The claimant's treating doctor.
 - f. A member of the organization's legal department.
 - g. Any other person the advocate determines appropriate.
10. "Order" means an administrative order issued pursuant to North Dakota Century Code chapter 28-32 or section 65-01-16.
11. "Organization" means workforce safety and insurance, or the director, or any department heads, assistants, or employees of the organization designated by the director to act within the course and scope of their employment in administering the policies, powers, and duties of the Act.
12. "Program" means the office of independent review.
13. "Vocational consultant's report" means the report issued by the rehabilitation consultant outlining the most appropriate rehabilitation option identified for the claimant.

History: Effective April 1, 1996; amended effective May 1, 2000; July 1, 2004.

General Authority: NDCC 65-02-08

Law Implemented: NDCC 65-02-27

92-01-03-03. Request for assistance - Timely request for consideration or rehearing. A claimant shall request assistance with the resolution of a dispute that arises from an order in writing within thirty days from the date of service of the order. An oral request is sufficient to toll the statutory time limit for requesting

rehearing if that request is followed by a written request for assistance which is received by the program within ten days after the oral request was made.

History: Effective April 1, 1996; amended effective May 1, 1998; May 1, 2000.

General Authority: NDCC 65-02-08

Law Implemented: NDCC 65-02-27

92-01-03-04. Procedure for dispute resolution.

1. A claimant may contact the program for assistance at any time. The claimant shall contact the program to request assistance with a dispute arising from an order within thirty days of the date of service of the order. The claimant may also contact the program for assistance when a claim has been constructively denied or when a vocational consultant's report is issued. A claimant must make an initial request in writing for assistance with an order, a constructively denied claim, or a vocational consultant's report.
2. In an attempt to resolve the dispute, the advocate may contact any interested parties. After oral or written contact has been made with the appropriate interested parties, the advocate will attempt to accomplish a mutually agreeable resolution of the dispute between the organization and the claimant. The advocate may facilitate the discussion of the dispute but may not modify a decision issued by the organization.
3. If a claimant has attempted to resolve the dispute and an agreement cannot be reached, the advocate shall issue a certificate of completion. The advocate will send the certificate of completion to the claimant and will inform the claimant of the right to pursue the dispute through hearing. To pursue a formal rehearing of the claim, the claimant shall file a request for rehearing with the organization's legal department within thirty days after the certificate of completion is mailed.
4. If a claimant has not attempted to resolve the dispute, the program shall notify the claimant by letter, sent by regular mail, of the claimant's nonparticipation in the program and that no attorney's fees shall be paid by workforce safety and insurance should the claimant prevail in subsequent litigation. The advocate shall inform the claimant of the right to pursue the dispute through hearing. To pursue a formal rehearing of the claim, the claimant shall file a request for rehearing with the organization's legal department within thirty days after the letter of noncompliance is mailed.
5. If an agreement is reached, the organization must be notified and an order or other legal document drafted based upon the agreement.
6. The program will complete action within thirty days from the date that the program receives a claimant's request for assistance. This timeframe

can be extended if the advocate is in the process of obtaining additional information.

History: Effective April 1, 1996; amended effective May 1, 1998; May 1, 2000; July 1, 2004; July 1, 2006.

General Authority: NDCC 65-02-08

Law Implemented: NDCC 65-02-27

92-01-03-05. Informal benefit review conference - Notice. Repealed effective May 1, 2000.